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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 75/897,584

Published in the Official Gazette on February 12, 2002

Whiteco Industries, Inc.

Opposer

v.

Ms. Eva Heilbrunn

Applicant



03-11-2002

U.S. Patent & TMO/TM Mail Rpt. Dt. #40

Opposition No.: _____

NOTICE OF OPPOSITION

Whiteco Industries, Inc., having a place of business at 1000 East 80th Place, Suite 700 North, Merrillville, Indiana 46410 (referred to herein as "Opposer"), believes that it will be damaged by registration of the mark CELEBRATION STATION shown in Trademark Application Serial No. 75/897,584, filed January 15, 2000 in International Class 30 by Ms. Eva Heilbrunn (referred to herein as "Applicant") and hereby opposes the same. The application as published in the February 12, 2002 Official Gazette at TM-346 may be summarized as follows:

Serial No.: 75/897,584

Filed: January 15, 2000

Applicant: Eva Heilbrunn

Mark: CELEBRATION STATION

Goods: For gift baskets consisting of assorted products of others, namely cookies, crackers, candy and stuffed animals. (U.S. Cl. 46) (Int. Cl. 30).

Published: February 12, 2002

Attached hereto as Exhibit A and incorporated herein by reference is a copy of page TM-346 of the February 12, 2002, Official Gazette.

As grounds of opposition, it is alleged that:

1. Opposer is a corporation organized and existing under the laws of the State of Nebraska.

2. Since 1989, Opposer has used the marks CELEBRATION STATION®, Reg. No. 1,677,947, and CELEBRATION STATION FUN CENTER (and Design)®, Reg. No. 1,718,892, in conjunction with family-friendly entertainment centers. In 1990, Opposer also began using the mark, CELEBRATION STATION FAMILY FUN CENTER®, Reg. No. 1,677,948, for its entertainment centers.

3. On August 1, 1994, Opposer expanded its use and began using the mark CELEBRATION STATION®, Reg. No. 1,974,116, in conjunction with interactive audiovisual games, contests, and competitions.

4. On August 25, 1994, Opposer further expanded its use and began using the marks, CELEBRATION STATION®, Reg. No. 2,498,343 and CELEBRATION STATION (and Design)®, Reg. No. 2,498,344, in conjunction with toys, game prizes, and party favors, including stuffed toy animals, toy balls, toy flying discs, toy pails and toy pouches.

5. Upon information and belief, Applicant did not use her CELEBRATION STATION mark in connection with the goods listed in her application in interstate commerce in the United States, or in commerce between the United States and any foreign country until December 20, 1999, which is ten years after Opposer first began using its CELEBRATION STATION® mark and five years after Opposer began using CELEBRATION STATION® in conjunction with toys, including stuffed animals.

6. By virtue of its efforts, and the expenditure of considerable sums for promotional activities, and by virtue of the excellence of its services, Opposer has gained a most valuable reputation and exceedingly valuable goodwill in its CELEBRATION STATION® and related marks.

7. The trademark proposed for registration by Applicant is identical to Opposer's CELEBRATION STATION® marks, Reg. Nos. 1,677,947, 1,974,116, and 2,498,343, and confusingly similar to its related marks, Reg. Nos. 1,677,948, 1,718,892, and 2,498,344. Applicant's use of the CELEBRATION STATION mark on the goods identified in the application is likely to cause confusion and lead to deception as to the origin of Applicant's goods.

8. Applicant's registration of this mark would result in confusion and substantial damage and injury to Opposer. Persons familiar with Opposer's marks are likely to buy Applicant's goods under the mistaken belief that they originate with, or are licensed, sponsored or approved by Opposer. Any such confusion would inevitably result in loss of sales to Opposer, and tarnish Opposer's goodwill and reputation established in its CELEBRATION STATION® marks.

9. Registration of the CELEBRATION STATION mark to Applicant would be a source of damage and injury to the Opposer.

WHEREFORE, Opposer prays that the application Serial No. 75/897,584 be rejected, and that the mark therein sought for the goods therein specified be denied and refused.

Opposer hereby submits this Notice of Opposition in duplicate along with the requisite filing fee in the amount of three hundred dollars (\$300.00) as Applicant's CELEBRATION

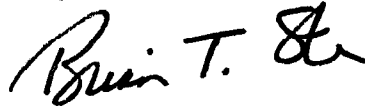
STATION mark covers a single class of goods. Please charge any additional fees or credit any excess to our Deposit Account No. 09-0007.

Please direct all communications to Brian T. Ster of Ice Miller, One American Square, Box 82001, Indianapolis, Indiana 46282-0002.

Dated this 12th day of March, 2002.

Sincerely,

ICE MILLER



Brian T. Ster
One American Square
Box 82001
Indianapolis, IN 46282-0002
Phone: (317) 236-5941
Fax: (317) 592-4820

Enclosures: Postcard
Check in the amount of \$300.00
Exhibit A

957315

CLASS 30—STAPLE FOODS

SN 75-638,511. GREENLIGHT FILMPRODUKTION GMBH,
80797 MUNICH, FED REP GERMANY, FILED 2-11-1999.



YOYO

FOR EDIBLE CAKE DECORATIONS, CANDY BREAK-
FAST CEREALS, CHEWING GUM, COOKIES, POPPED
AND CANDY COATED POPCORN, CAKES, FROZEN
CONFECTIONS, COCOA, ICE CREAM, PRETZELS AND
TORTILLA CHIPS (U.S. CL. 46).

SN 75-809,170. NEXT CEREALS, LLC, CARLSBAD, CA.
FILED 9-27-1999.

NOW THAT'S DIFFERENT

FOR BREAKFAST CEREALS AND PROCESSED CER-
EALS; CEREAL BASED SNACK FOODS (U.S. CL. 46).

SN 75-869,581. MARKOVICH, LILLIAN, DIAMOND BAR,
CA. FILED 12-13-1999.



NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO
USE "FRUTTAS", APART FROM THE MARK AS SHOWN.
THE ENGLISH TRANSLATION OF "BELLA FRUTTAS" IS
"BEAUTIFUL FRUIT".
FOR COOKIES (U.S. CL. 46).
FIRST USE 8-15-1998; IN COMMERCE 8-15-1998.

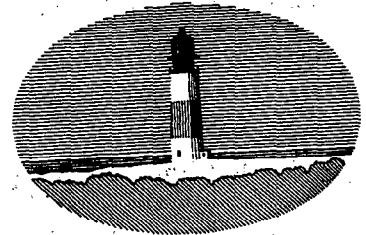
SN 75-897,584. HEILBRUNN, EVA, SAN DIEGO, CA. FILED
1-15-2000.

CELEBRATION STATION

FOR GIFT BASKETS CONSISTING OF ASSORTED
PRODUCTS OF OTHERS, NAMELY COOKIES, CRACK-
ERS, CANDY AND STUFFED ANIMALS (U.S. CL. 46).
FIRST USE 12-20-1999; IN COMMERCE 12-20-1999.

CLASS 30—(Continued).

SN 75-907,617. EASLEY, MOSES L., III, DBA M & M
INDUSTRIES, SAN FRANCISCO, CA. FILED 1-31-2000.



THE MARK IS LINED FOR THE COLORS BLUE, RED
AND GREEN.
FOR BARBEQUE SAUCE AND COOKING AND DIP-
PING SAUCE (U.S. CL. 46).
FIRST USE 5-21-1999; IN COMMERCE 9-4-1999.

SN 75-945,486. SANFORD FARADAY, INC., FORT
OGLETHORPE, GA. FILED 2-25-2000.

SQUISH IT! SQUEEZE IT!
SHAPE IT! EAT IT!

FOR CANDY (U.S. CL. 46).
FIRST USE 10-7-1996; IN COMMERCE 6-21-1999.

SN 76-021,858. DEPWEG, ADAM, CUCHARA, CO. AND
DEPWEG, JILL, CUCHARA, CO. FILED 4-7-2000.



THE STIPPLING SHOWN IN THE DRAWING IS FOR
SHADING PURPOSES ONLY.
THE PORTRAIT OF THE DRAWING DOES NOT REPRE-
SENT A LIVING INDIVIDUAL.
FOR MUSTARD, KETCHUP, COOKING AND DIP-
PING SAUCES, SEASONINGS AND SALAD DRESSING
(U.S. CL. 46).



03-11-2002

U.S. Patent & TMO/TM Mail Rcpt. Dt. #40

ICEMILLERSM
LEGAL & BUSINESS ADVISORS

March 12, 2002

WRITER'S DIRECT NUMBER: (317) 236-5941
Internet: ster@icemiller.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Express Mail label number: EF158334478US

Date of

Deposit: March 12, 2002

BOX TTAB - FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Mike Tucker
(Name of person mailing paper or fee)

mjt
Signature

Re: Opposition to Trademark Application Serial No. 75/897,584

Dear Madam/Sir:

Enclosed please find a Notice of Opposition for filing in the matter of Trademark Application Serial No. 75/897,584 in duplicate. Also enclosed is a check in the amount of three hundred dollars (\$300.00) pursuant to 37 C.F.R. §2.6 (a) (17) in payment of the filing fee for this Notice of Opposition.

March 12, 2002

If you have any questions concerning this Notice of Opposition please contact the undersigned.

Sincerely,

ICE MILLER

A handwritten signature in black ink, appearing to read "Brian T. Ster". The signature is fluid and cursive, with the first name "Brian" being more prominent than the last name "Ster".

Brian T. Ster
One American Square
Box 82001
Indianapolis, IN 46282-0002
Phone: (317) 236-5941
Fax: (317) 592-4820

Enclosures: Notice of Opposition to Trademark
Application No. 75/897,584 (in duplicate)

cc: Carol Ann Bowman, Esq.

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